Regd. No. M.—1175.

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The Mysore Gazette

EXTRAORDINARY.

PUBLISHED BY AUTHORITY.

BANGALORE, SATURDAY, DECEMBER 21, 1940.

PART IV.

Legislative Measures and Rules thereunder.

NOTIFICATIONS.

Order No. P. 3190—Legis. 28-40-1, dated Bangalore, the 21st December 1940.

Ordered that the accompanying Emergency Act to provide for assistance to the coffee industry by regulating the export of coffee from and the sale of coffee in Mysore and by other means which received the assent of His Highness the Maharaja on the 20th day of December 1940, be published as Act No. XXVIII of 1940, in the *Mysore Gazette* for general information.

By Order,

B. T. KESAVIENGAR,

Chief Secretary to Government.

ACT No. XXVIII OF 1940.

THE MYSORE COFFEE MARKET EXPANSION (EMERGENCY) ACT, 1940.

(An Act to provide for assistance to the coffee industry by regulating the export of coffee from and the sale of coffee in Mysore and by other means.)

(Received the assent of His Highness the Maharaja on the twentieth day of December 1940).

WHEREAS the Coffee Market Expansion Ordinance, 1940, has been made and promulgated in British India to provide for assistance to the coffee industry by regulating the export of coffee from and the sale of coffee in British India, and by other means;

AND WHEREAS it is necessary to make similar provision in Mysore for assistance to the coffee industry;

NOW THEREFORE in exercise of the powers conferred by section 12 of the Mysore Legislative Council Act, 1923;

It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Mysore Coffee Market Expansion (Emergency) Act, 1940.

(2) It extends to the whole of Mysore.

(3) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "the Board" means the Indian Coffee Market Expansion Board constituted by the Government of India under the Ordinance,

(*b*) "Coffee" means the commodity derived from the fruit of the rubiaceous plant known by that name, and includes raw coffee, cured coffee and uncured coffee;

(*c*) "controller of coffee" means the controller of coffee appointed under the Ordinance;

(*d*) "curing" means the application to raw coffee of mechanical processes other than pulping for the purpose of preparing it for marketing;

(*e*) "curing establishment" means any place to which raw coffee is sent by a registered owner for curing,

and includes any estate which the Board may declare to be a curing establishment for the purposes of this Act;

(*f*) "estate" means an area administered as one unit which contains land planted with coffee plants;

(*g*) "internal sale quota" means that portion stated in terms of bulk or weight, of the whole of the coffee produced by an estate in the year which a registered estate is permitted to sell in the Indian market;

(*h*) "Ordinance" means the Coffee Market Expansion Ordinance, 1940, of the Government of India;

(*i*) "prescribed" means prescribed by rules made under this Act;

(*j*) "registered estate" means an estate in respect of which an owner is registered under sub-section (1) of section 5, or under sub-section (1) of section 14 of the Ordinance, or under any law or rule having the force of law of an Indian State; and includes also any estate in respect of which an owner is required to be registered under the provisions abovementioned;

(*k*) "registered owner" means an owner of a registered estate who has been or is required to be registered under sub-section (1) of section 5;

(*l*) "surplus pool" means the stock of coffee accumulated by the Board out of the amounts delivered to the Board under section 14.

(*m*) "year" means the period of twelve months beginning on the 1st day of July 1940, and ending on the 30th day of June 1941:

Provided that the Government may, by notification in the official Gazette, declare that the year for the purposes of any section of this Act which may be specified in the notification shall be fourteen months ending on the 31st day of August, 1941.

Duty of excise.

3. A duty of excise shall be levied at such rate not exceeding one rupee per hundredweight as may be fixed by the Government, on the recommendation of the Board, by notification in the official Gazette on all coffee, except coffee sold and delivered before the commencement of this Act, which a registered estate is permitted by the internal sale quota allotted to it to sell in the Indian market, whether such coffee is actually sold or not, and on all coffee released for sale in India by the Board from the surplus pool.

Payment of proceeds of duty to the Board and manner of realisation by the Board.

4. (1) The proceeds of the duty of excise levied under section 3 shall be paid to the Board for credit to the general fund of the Board.

(2) The duty of excise on coffee shall be payble by the registered owner of the estate producing the coffee and shall be realised by the Board by the deduction of the amount of the duty payable by such owner from any sum due to him on account of sales from the surplus pool. It shall be a first charge on such sum, and shall, if not capable of realisation by deduction as aforesaid, be paid to the Board by the registered owner within one month of demand by the Board or thereafter be recoverable from him as an arrear of land revenue.

(3) The Board shall have power to adjudge by bulk the number of hundredweights contained in any quantity of uncured coffee.

(4) No action of the Board under this section shall be called in question by any Court.

Registration of owners of coffee estates.

5. (1) Every person owning land planted with coffee plants aggregating not less than 25 acres whether such land is comprised in one estate or in more than one estate shall, before the expiration of one month from the commencement of this Act, or before the expiration of one month from the date on which, after the commencement of this Act, he first becomes subject to the provisions of this sub-section, apply to the registering officer appointed in this behalf by the Government to be registered as an owner and in respect of each estate owned by him:

Provided that where the estate or estates in question are situated partly in Mysore and partly in another Indian State or States, the application shall be made to the registering officer appointed by any State.

(2) A registration once made shall continue in force until it is cancelled by the registering officer.

(3) If any question arises whether an owner of an estate is or is not required to be registered under this section, the question shall be decided by the Controller of Coffee.

Power of Government to make rules.

6. (1) The Government may, by notification in the official Gazette, make rules to carry into effect the provisions of section 5.

(2) Without prejudice to the generality of the foregoing power, such rules may prescribe the form of the

application for registration and for cancellation of registration, the fee payable on such applications, the particulars to be included in such applications, the procedure to be followed in granting and cancelling registration, the registers to be kept by registering officers, and the supply by registering officers of information to the Board.

Maximum prices for sale of coffee wholesale.

7. (1) The Government may, after consultation with the Board, by notification in the official Gazette fix the maximum price or prices at which coffee may be sold wholesale in the Indian market.

(2) No registered owner or licensed curer shall sell coffee wholesale in the Indian market at a price exceeding the maximum fixed under this section.

Sale of coffee in excess of internal sale quota.

8. (1) No registered owner shall, after the commencement of this Act, sell or contract to sell in the Indian market coffee from any registered estate if by such sale the internal sale quota allotted to that estate is exceeded:

Provided that nothing in this section shall apply to coffee sold from a registered estate in excess of the internal sale quota if such sale was in pursuance of a contract of sale entered into before the 3rd day of December 1940, and if after the commencement of this Act no coffee has been sold from that estate in the Indian market except in pursuance of a contract of sale entered into before the 3rd day of December 1940.

Sale of uncured coffee.

9. No registered owner shall sell uncured coffee (including pounded coffee) direct from an estate except under and in accordance with the provisions of a licence procured from the Government under section 13.

Sale of cured coffee.

10. No registered owner shall sell cured coffee (including pounded coffee) otherwise than through a curing establishment licensed under section 16.

Internal sale quota.

11. (1) The Government shall, as soon as may be after the commencement of this Act, allot to each registered estate an internal sale quota for the year.

(2) The internal sale quota shall be a fixed percentage common to all registered estates, of the probable total production of the estate in the year as estimated by the Board.

(3) The Government may at any time vary the internal quota by varying the fixed percentage common to

all registered estates, or may express the whole or any part of the internal sale quota of an estate in terms of bulk instead of in terms of weight.

Returns to be made by registered owners.

12. (1) A registered owner shall furnish to the Board at the prescribed times and in the prescribed manner such returns as may be prescribed.

(2) If any registered owner fails to furnish the returns required under sub-section (1) in respect of any estate, the Government may refuse to allot an internal sale quota to that estate, or, where an internal sale quota has already been allotted, may cancel it.

(3) The Government may authorise an officer to visit any estate at any time to verify the accuracy of any return made under this section or to ascertain the productive capacity of the estate.

Licences for sale of uncured Coffee.

13. The registered owner of any estate may, subject to the prescribed conditions and so long as the internal sale quota allotted to that estate will not be exceeded by the proposed sale, obtain from the Government a licence for the sale from that estate of uncured coffee.

Surplus coffee and surplus pool.

14. (1) All coffee produced by a registered estate in excess of the amount specified in the internal sale quota allotted to that estate shall be delivered to the Board for inclusion in the surplus pool by the owner of the estate or by the curing establishment receiving the coffee from the estate.

(2) Delivery shall be made to the Board in such places and in such manner as the Board may direct, and such directions may provide for partial delivery to the surplus pool at any time whether or not at that time the internal sale quota has been exceeded, and the coffee delivered shall, unless the Board otherwise directs in the case of coffee already in curing establishments at the commencement of this Act, be such as to represent fairly in kind and quality the produce of the estate. The Board may reject any consignment offered for delivery which does not satisfy this requirement, but shall not reject any consignment merely for a defect in curing.

(3) Coffee delivered for inclusion in the surplus pool shall upon delivery to the Board remain under the control of the Board which shall be responsible for storage, curing where necessary, and marketing of the coffee.

(4). The Board shall prepare a differential scale for the valuation of coffee, and shall in accordance with that scale classify the coffee in each consignment delivered for inclusion in the surplus pool according to its kind and quality, and shall make an assessment of its value based on its quantity, kind and quality.

(5) The Board may, with the consent of a registered owner, before an internal sale quota has been allotted to an estate, treat as having been delivered for inclusion in the surplus pool any coffee from such estate which the registered owner may agree to have so treated.

Coffee to be cured in licensed curing establishments.

15. No registered owner shall cause or allow coffee to be cured elsewhere than in a licensed curing establishment, whether the curing establishment is maintained by himself or by another person.

Licences of curing establishments.

16. Every establishment for curing coffee shall obtain from the Government a licence to operate as such.

Information to be supplied to the Board in connection with curing.

17. (i) A registered owner when sending coffee to a curing establishment shall report to the Government, separately for each estate from which coffee is sent, the amount of coffee sent; and the curing establishment shall, in accordance with such instructions as may be issued by the Government and having regard to the internal sale quota of the estate, apportion each such consignment into two parts, one part consisting of coffee intended for internal sale and one part of coffee intended to be delivered for inclusion in the surplus pool and shall report to the Government the amount of coffee in each such part.

(2) Every curing establishment shall, so far as may be, comply with the provisions of sub-section (1) in respect of all coffee in the establishment at the commencement of this Act.

(3) A registered owner curing coffee in a curing establishment maintained by himself shall supply to the Government the information specified in sub-section (1).

(4) A curing establishment which buys or receives uncured coffee from any person shall ascertain the estate on which the coffee was produced and shall report to the Government the quantity of coffee so obtained and the estate or estates from which it came.

(5) Every curing establishment shall maintain accounts in such forms as may be required by the Government and such accounts shall be open to inspection at any

time by the Government or by an officer authorised in this behalf by the Government.

Payments to registered owners.

18. The registered owner of an estate in Mysore shall be paid from the pool fund maintained under the Ordinance, payments for coffee delivered by him for inclusion in the surplus pool which he would be entitled to receive under the Ordinance if such estate had been situated in British India.

Failure to register.

19. Any owner of a coffee estate who fails to apply for registration in accordance with section 5 shall be punishable with fine which may extend to one thousand rupees and to a further fine which may extend to five hundred rupees for each month after the first during which such failure continues.

Sale of coffee in contravention of sections 7, 8, 9 or 10.

20. Any registered owner who sells coffee in contravention of section 7 or section 8 or section 9 or section 10 shall be punishable with fine which may extend to one thousand rupees, and the Board may thereafter deduct from any payment to be made under section 19 to such registered owner a sum equal to the value as estimated by the Board of the coffee unlawfully sold.

Unlicensed curing establishment.

21. If any curing establishment operates as such without a licence, the owner shall be punishable with fine which may extend to five hundred rupees.

False returns.

22. Any person who makes in any return to be furnished under section 12 or in any report to be made under section 17 any statement which is false and which he knows to be false or does not believe to be true shall be punishable with fine which may extend to one thousand rupees.

Obstruction.

23. Whoever obstructs any member or officer of the Government or the Board or any person authorised by the Government or the Board, in the discharge of any duty imposed on or entrusted to him under this act, or who, having control over or custody of any records, fails to produce such records when required to do so by a member or officer of the Board or by a person authorised by the Government or the Board to inspect such records, shall be punishable with fine which may extend to one thousand rupees.

Cognizance of offences.

24. (1) No Court other than the Court of a Magistrate of the First Class shall take cognizance of any offence punishable under this Act.

(2) No Court shall take cognizance of an offence, punishable under section 19, except on complaint made by an officer authorised in this behalf by the Government or of an offence punishable under any other section except on complaint made with the previous sanction of the Government by an officer authorised in this behalf by the Board.

Power of Board to determine amount of coffee sold by an estate.

25. The Board shall have power to determine, after such inquiry as it thinks fit, the amount of coffee which has at the commencement of this Act been sold, or been sold and delivered in the year by any registered estate, and the amount so determined shall be conclusive for the purpose of section 8.

Appeals to the Government.

26. (1) Any person aggrieved by an order of the Board refusing a licence to, or cancelling a licence of, a curing establishment may, within sixty days of the making of the order, appeal to the Government.

(2) Any person making an appeal under this section shall pay a fee of five rupees.

Inspection of records.

27. Any member of the Board, and any officer of the Board or other person authorised in this behalf by the Government or the Board, may enter any registered estate or any curing establishment and may require the production for his inspection of any records kept therein.

Inspection of records of the Board and obtaining of copies.

28. Any registered owner to whom an internal sale quota is allotted may, subject to the prescribed conditions, inspect the records maintained by the Board and may on payment of the prescribed fee obtain copies of any proceedings or orders of the Board.

Contracts.

29. Nothing in this Act shall apply to or affect any contract for the sale of coffee entered into before the 3rd day of December 1940, if before the expiration of twenty-one days from the commencement of this Act the owner of the coffee estate or the exporter who has effected the contract has furnished to the Government particulars of such contract; but all contracts made on or after the said date shall on the commencement of this Act, in so far as they are at variance with the provisions of this Act, be void:

Provided that the Board may by order relax the provisions of this section in their application to any individual contract.

Power to make rules.

30. The Government may by notification in the official Gazette, make rules to carry out the purposes of this Act.

Power of delegation.

31. The Government may, delegate all or any of the powers conferred on it by any of the provisions of this Act to the Board or to the Controller of coffee.

MIRZA M. ISMAIL,
Dewan.

No. P. 3191—*Legis.* 28-40-2, *dated Bangalore, the 21st December* 1940.

In exercise of the powers conferred by sub-section (3) of section 1 of the Mysore Coffee Market Expansion (Emergency) Act, 1940, the Government of His Highness the Maharaja are pleased to direct that the said Act shall come into force on and from the 21st December 1940.

No. P. 3192—*Legis.* 28-40-3, *dated Bangalore, the 21st December* 1940.

In exercise of the powers conferred on them by the Mysore Coffee Market Expansion (Emergency) Act, 1940, the Government of His Highness the Maharaja are pleased to appoint the Deputy Commissioners of Districts to be Registering Officers within their respective districts.

No. P. 3193—*Legis.* 28-40-4, *dated Bangalore, the 21st December* 1940.

In exercise of the powers conferred by section 31 of the Mysore Coffee Market Expansion (Emergency) Act, 1940, the Government of His Highness the Maharaja are pleased to delegate to the Indian Coffee Market Expansion Board all the powers exercisable under sections 7, 11, 12, 13, 16 and 17 of the said Act.